

FINAL REPORT OF THE DEPARTMENT OF JUSTICE
USE OF DEADLY FORCE BY DEWEY BEACH POLICE DEPARTMENT
SUBJECT: RODNEY K. ROBINSON
OFFICER: DEWEY BEACH PATROLMAN DYLAN EBKE
DATE OF INCIDENT: MARCH 19, 2022

Dated: January 17, 2023

Scope of the Investigation

This is the final report of the Delaware Department of Justice, Division of Civil Rights and Public Trust (“DCRPT”), arising out of the investigation of the use of deadly force by Dewey Beach Police Department (“Dewey Beach PD” or “Dewey Beach Police”) Patrolman Dylan Ebke (“Ofc. Ebke” or “Ebke”) against Rodney K. Robinson (“Robinson”). DCRPT reviewed evidence consisting of interviews of police witnesses, civilian witnesses, scene photos, police reports, medical reports and forensic firearm reports. Investigators and attorneys with DCRPT reviewed this use of force incident for the Department of Justice, independent of any administrative or criminal investigation conducted by the Dewey Beach Police Department.

Purpose of the Department of Justice Report

The Department of Justice determines only whether a law enforcement officer’s use of deadly force constitutes a criminal act for which there is a reasonable probability that it will result in a conviction. The Department of Justice does not establish or enforce internal police policies concerning the proper use of deadly force by law enforcement officers. Law enforcement agencies are responsible for establishing and enforcing guidelines for the use of force by their officers and for determining whether an officer’s actions were consistent with such guidelines in each case. This report expresses no opinion whether involved officer’s actions complied with departmental policies or procedures.

Facts

On the evening of March 18, 2022, Robinson arrived at the Starboard Restaurant and Bar (“Starboard”) in Dewey Beach. Robinson was driven to the Starboard by an acquaintance. Upon arrival, the acquaintance observed that Robinson had a handgun tucked into the right waistband of his blue jeans. Starboard security video footage shows Robinson later displaying the handgun inside of Starboard.

When Robinson exited through the Starboard front entrance to a sidewalk on Coastal Highway in the early morning of March 19, 2022 at 1:13 AM, a security officer noticed he possessed a gun. The security officer alerted a contingent of Dewey Beach Police officers who were gathered in the area.

Dewey Beach Police attempted to detain Robinson. Robinson then ran southbound along Coastal Highway, and four officers followed in a foot pursuit. At least one of the officers, Ofc. Ebke, observed what he believed was a firearm in Robinson's waistband as he fled. This foot pursuit was captured on video systems owned by the Town of Dewey Beach, Mama Celeste's Pizza, and the Starboard. Robinson eluded the police and was not apprehended.

Approximately one hour later, Robinson returned to the Starboard. Shortly thereafter, Robinson appears on the Starboard surveillance video system, walking northbound on the sidewalk in front of the business. At this time, a Starboard manager placed a 911 call to notify police that the same subject from earlier had returned to the business.

The Dewey Beach Police again tried to stop Robinson. Robinson refused commands to stop and ran into an alley behind Izzy Plaza. Robinson reached a fence that blocked egress through the alley, and he was unable to continue his flight. The police gave commands for Robinson to stop and show his hands. Robinson turned toward Dewey Beach Officers John Rhodes ("Ofc. Rhodes" or "Rhodes") and Ebke. Officer Rhodes deployed a Taser toward Robinson that neither officer observed to have any effect on Robinson. Ofc. Ebke stated that Robinson then used his left hand to lift his sweatshirt and began reaching with his right hand toward a bulge in his right waistband. Ofc. Ebke further stated he believed the bulge was a firearm. Subsequently, Ofc. Ebke fired one round from his departmental firearm toward Robinson. Both officers then sought cover by running through a breezeway to Coastal Highway. Robinson continued his attempt to flee by running out of the same end of the alley he had entered. Robinson collapsed in the rear yard of a residence behind the Starboard. Robinson had been struck by the single shot that Ebke fired.

Upon locating Robinson, officers attempted lifesaving measures by administering CPR and connecting an Automatic External Defibrillator (AED) retrieved from the Starboard. Sussex Co. EMS personnel assumed lifesaving measures and transported Robinson to Beebe Hospital where he was pronounced dead upon arrival. Police later learned that Robinson had pending criminal charges related to his fleeing the Delaware State Police in a vehicle in March of 2021.

Police Witnesses

Dewey Beach PD Ofc. D. Ebke:

Ofc. Ebke told investigators he was one of two police officers, along with Ofc. Rhodes, detailed to provide added security for the Starboard's annual Season Opening Event on March 18, 2022 beginning at 8:00 p.m. Ofc. Letonhoff was also working the assignment as a supplemental patrol officer. During the assignment, Ofc. Ebke wore a patrol uniform consisting of a black patrol shirt, outer vest marked "POLICE" on the front and back, khaki pants, and duty/gun belt.

Ofc. Ebke was standing at the front of Ofc. Rhodes' patrol vehicle in front of the Starboard when Robinson was pointed out as possessing a firearm. Additional patrol units, including Officers Swanson, Jenney, and Letonoff, were present for a previous disorderly person call. Officers Ebke and Letonhoff approached Robinson. Ofc. Letonoff grabbed both of Robinson's shoulders from the front and said, "Hey man stop. Do you have a gun on you?" Ofc. Ebke attempted to grab Robinson's arm, but Robinson darted away.

Ofc. Ebke made a radio transmission reporting a foot pursuit southbound on Route 1. Ofc. Ebke observed Robinson using his left hand to reach toward his waistband, and the black handle of a handgun sticking out towards the left side of Robinson's pants.¹ Robinson turned right just after passing the Bottle and Cork bar and was last seen hopping a fence at the rear of an unknown residence on Bellevue Street. Ofc. Ebke patrolled the area looking for a tossed gun. Ofc. Ebke returned to the Starboard with Ofc. Rhodes to check the ID scan system but was unable to identify Robinson in the system. While checking the ID scan system, Ofc. Ebke heard Starboard bouncers state, "He was waving a gun around."

Officers Rhodes and Ebke were in the patrol car and pulling out from the Bottle and Cork when radio dispatch reported the armed subject (Robinson) was back at the Starboard. Ofc. Ebke noticed Robinson looking in Ofc. Swanson's patrol vehicle and made a radio transmission to let Ofc. Swanson know the subject was by his vehicle. Ofc. Rhodes stopped the patrol vehicle at the front of the event tent over the Starboard's parking lot.

Ofc. Ebke saw Robinson inside the tent. Officers Ebke and Rhodes entered the tent and Ebke drew his gun while Robinson's back was towards them. Officers Ebke and Rhodes both shouted, "Show me your hands!" Robinson looked over his shoulder then slowly began running

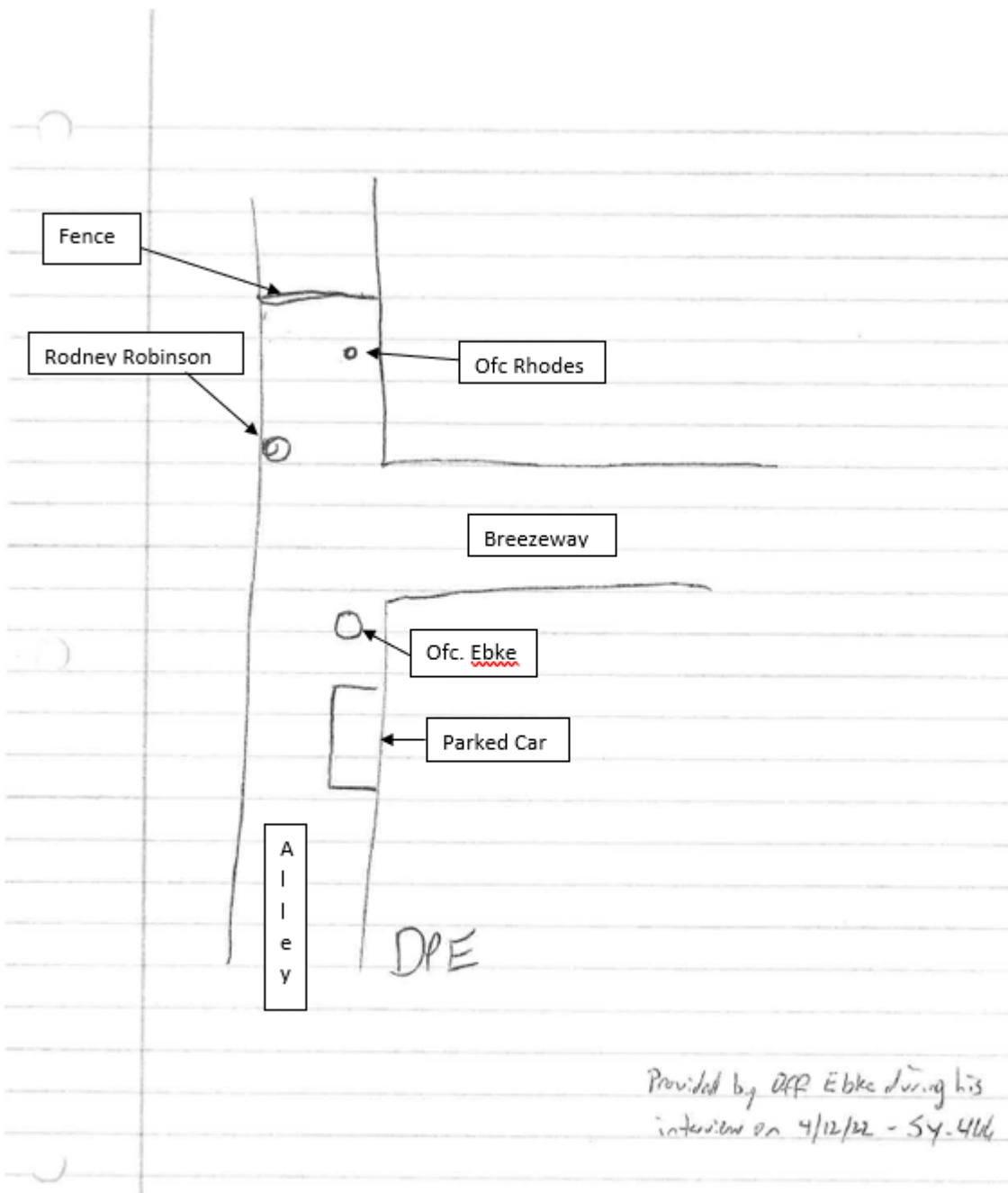
¹ Video evidence indicates the handgun was on Robinson's right side.

away, which Ofc. Ebke found odd considering how fast he was running during the previous foot pursuit.

Robinson fled onto Saulsbury Street westbound and made a right into an alley behind Izzy Plaza. Officers Ebke and Rhodes were both shouting, “Show me your hands! Stop running!” Ofc. Rhodes entered the alley ahead of Ofc. Ebke. At the rear of the alley there is a fence that Robinson was unable to surmount. Ofc. Rhodes deployed his Taser. Ofc. Ebke observed one of the probe wires emanating from Robinson’s right shoulder, but the Taser had no observed effect on Robinson. Robinson then turned to Ofc. Ebke with what Ebke described as “a thousand-yard stare” and pulled up the right side of his sweatshirt and put his hand in his waistband where Ebke saw a bulge, which he believed to be a handgun. Ofc. Ebke then realized he had backed himself into a corner as a parked car was behind him and blocked his ability to move backward. There was also a wall to his right. Ofc. Ebke pulled the trigger of his handgun one time. He observed Ofc. Rhodes run down the breezeway that led to the front of Izzy Plaza and Ofc. Ebke immediately followed.

While running through the breezeway, Ofc. Ebke expected to be shot in the back. Cpl. Jenney directed that a perimeter be established. They observed a puddle of blood that led to a dumpster on the opposite side of the fence that blocked the alley. They checked the dumpster, did not find Robinson, and held their position. As more units arrived, Ofc. Ebke was pulled from the perimeter and advised to sit in a patrol vehicle.

When Ofc. Ebke was asked why he thought deadly force was necessary, he said, “Due to my previous encounter with him, and overhearing what was said at the Starboard. I believed that he was armed with a handgun. Sorry, let me restate that, I know that he was armed with a handgun. Umm, I feared for Rhodes’ life, because he was within close proximity. This guy is now approaching me, I am kind of cornered now. And he is reaching into his waistband. I see the bulge. I feared for my life at that point.”



Ofc. Ebke's crime scene sketch (text boxes added by DCRPT)

Dewey Beach PD Ofc. J. Rhodes:

Ofc. Rhodes told investigators he was working a special duty assignment at the Starboard's annual Season Opening Event on March 18, 2022 beginning at 8:00 p.m. He was standing in front of the Starboard with other Dewey Beach Police officers when a Starboard bouncer came out saying "Gun, there is a gun," and pointed to a black male wearing a black-hooded shirt (later identified as Robinson).

As Ofc. Rhodes walked around his patrol vehicle, Ofc. Letonoff grabbed Robinson's waistband. Robinson took off running. Ofc. Rhodes was the lead officer chasing Robinson, who had an estimated fifty-yard lead, southbound on Coastal Hwy. Ofc. Rhodes yelled "Stop" as he lost sight of Robinson when he turned right between Dewey Beach Liquors and the Bottle and Cork business fronts. Ofc. Rhodes again yelled "hey stop!" when he spotted Robinson again before Robinson ran through a row of fencing. Officers Rhodes and Ebke continued to search the area and check trash cans for a weapon, when they heard dispatch report that Robinson was back at the Starboard. Ofc. Rhodes does not recall seeing a weapon during the first pursuit of Robinson. He recalled Ofc. Ebke say something about, "grabbing his waistband when he was running."

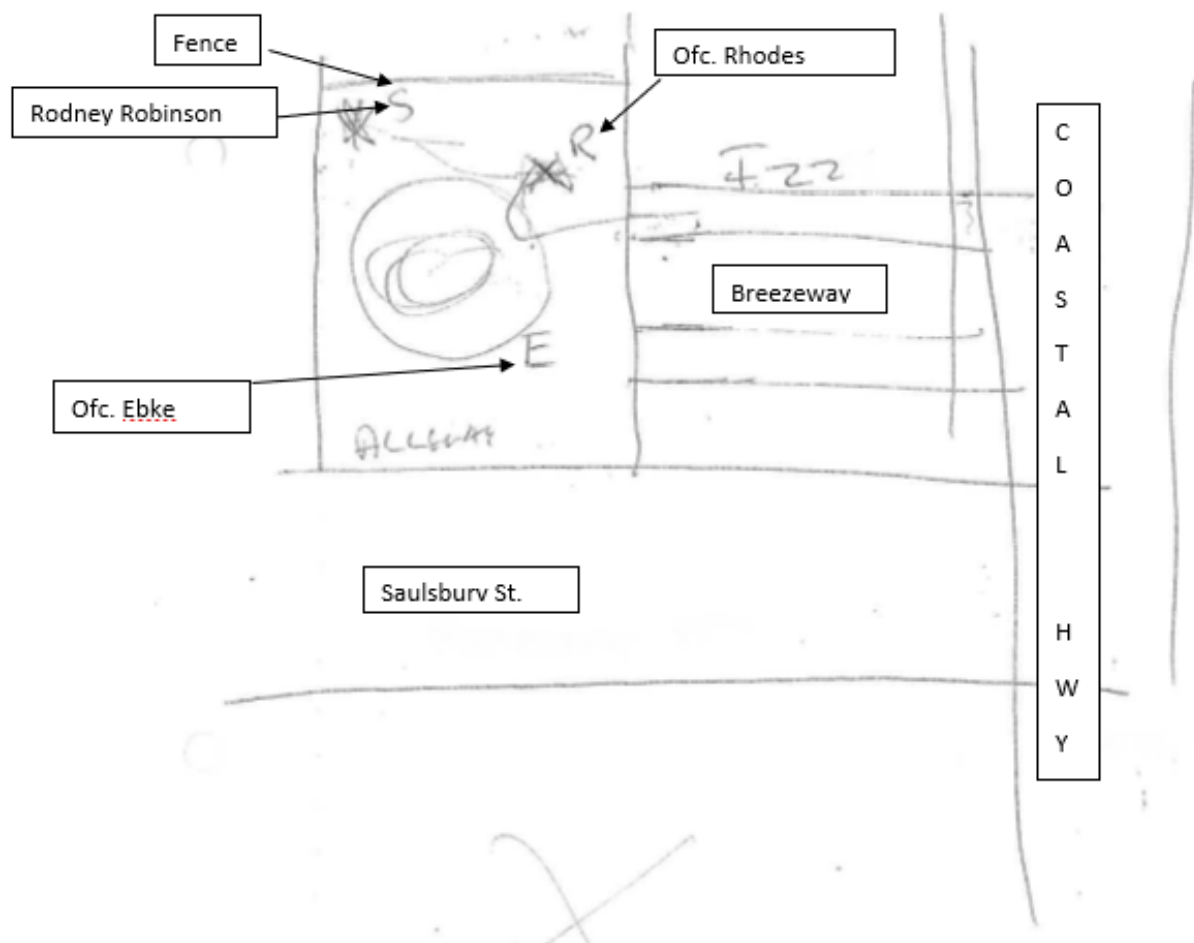
While Ofc. Ebke and Ofc. Rhoades are traveling in the same patrol vehicle northbound on Coastal Hwy, Ofc. Ebke noticed Robinson walking toward Ofc. Swanson's vehicle. Ofc. Rhodes parked the vehicle near an event tent that was covering the front parking lot of the Starboard. The officers exited the vehicle and observed Robinson run inside the tent. Ofc. Rhodes first drew his duty weapon, but then returned it to its holster and drew his Taser. Ofc. Rhodes pursued Robinson onto Saulsbury Street and then into the alley behind Izzy Plaza (a strip retail/business center). Ofc. Rhodes was not aware whether other officers were initially running behind him .

Robinson attempted but was unable to cross the fence blocking the alley. Robinson then began to turn away from the fence and towards Ofc. Rhodes. Ofc. Rhodes aimed the Taser's two laser points on Robinson's upper body and discharged the weapon. He recalls the Taser lights were on the center mass of Robinson's body ("Could have been his back or side area"). This was the first time Ofc. Rhodes deployed his Taser. Rhodes did not observe any reaction from Robinson after deploying the Taser, so he decided to retreat and find cover. Ofc. Rhodes ducked and ran toward a breezeway located in Izzy Plaza. While running toward the breezeway, he heard a gunshot, but did not know who had fired. Ofc. Rhodes felt a jolting pain in his leg and thought

maybe he was shot. He recalls the jingling of keys as Ofc. Ebke had been running behind him in the breezeway.

Upon reaching the front of Izzy Plaza, Ofc. Rhodes saw Cpl. J. Jenney who asked, “Who shot?” Cpl. Jenney directed the officers to split up and Ofc. Rhodes went to the North end of the alley with Ofc. J. Swanson. Ofc. Swanson checked him to see if he had been shot.

Once more police units arrived, Ofc. Rhodes walked back to Saulsbury Street and was instructed to take Ofc. Ebke to his patrol vehicle and sit with him. When another officer arrived, he went to the location where Robinson collapsed. He observed a black handgun laying at Robinson’s feet, and Robinson was lying face down in the grass. Rhodes saw officers check Robinson for additional weapons and begin to administer CPR.



Ofc. Rhodes’ crime scene sketch (text boxes added by DCRPT)

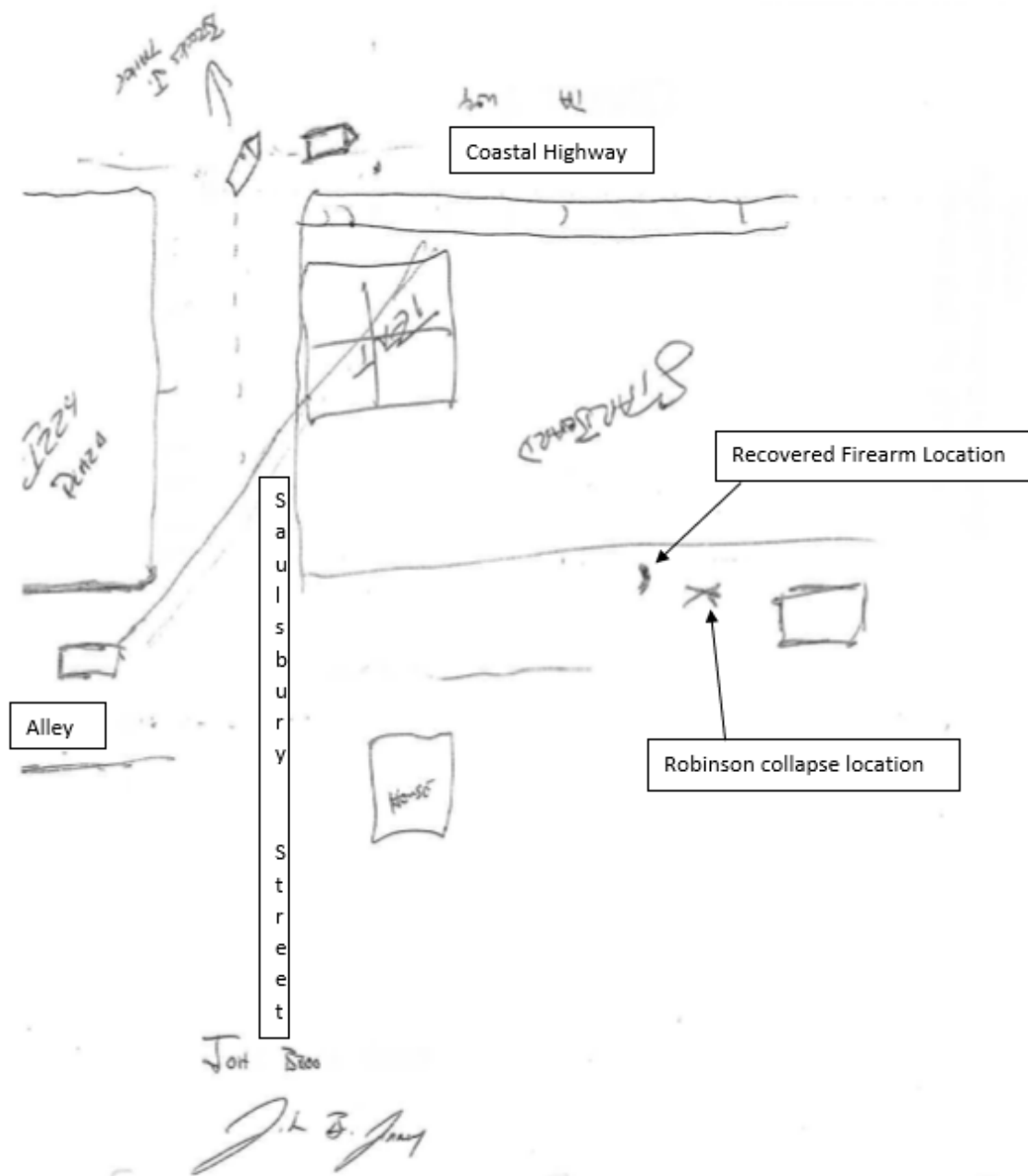
Dewey Beach PD Cpl. J. Jenney:

Cpl. J. Jenney advised that he began his shift at 8:30 p.m. on March 18, 2022. He observed Robinson flee from officers who attempted to stop him outside the Starboard. Ofc. Jenney assisted in the first foot pursuit which Robinson eluded.

Approximately one hour after the foot pursuit, Cpl. Jenney again responded to the Starboard after a report that the armed subject had returned. He observed Robinson near the Starboard VIP entrance adjacent to Coastal Hwy. Cpl. Jenney then saw Robinson flee on foot from Ofc. Ebke and Rhodes through a tent and across Saulsbury Street in a north direction.

Cpl. Jenney ran north parallel to the foot pursuit along Coastal Hwy with Ofc. Swanson to intercept Robinson. He was aware of two walkways that ran from the alley behind Izzy Plaza toward Coastal Hwy. While positioned near the Marley Smoke Shop, Ofc. Jenney heard a gunshot and then observed Officers Ebke and Rhodes running towards Coastal Hwy. He did not observe Ofc. Ebke fire his weapon.

Cpl. Jenney and Ofc. Ebke observed a blood trail while clearing the rear of Izzy Plaza. When he looked to his left, he saw a body lying in a driveway/grass lane. Cpl. Jenney approached the motionless body and observed a firearm on the ground in close proximity. Cpl. Jenney described Ofc. Ebke as “very upset” and “really shook up” after the shooting.



Cpl. Jenney's crime scene sketch (text boxes added by DCRPT)

Dewey Beach PD Ofc. J. Swanson:

Ofc. Swanson advised that he began his shift at 9:00 p.m. on March 18, 2022. Ofc. Swanson was present at the Starboard when a bouncer notified officers that a departing patron had a firearm in his waistband. He assisted Officers Letonoff, Ebke, and Rhodes in approaching

Robinson and observed the butt of a firearm on the right side of Robinson's waist as Ofc. Letonoff made contact. Robinson then fled southbound along Coastal Hwy with all four officers giving chase.

Ofc. Swanson could see Robinson's right hand on the firearm as he was running away. Ofc. Swanson lost sight of Robinson after he turned right between the Bottle and Cork bar and Dewey Beach Liquors. Following the initial pursuit, Ofc. Swanson returned to the Starboard and began reviewing the data from a system that scans the identification of all patrons, in an attempt to identify the fleeing suspect. Ofc. Swanson then transported an intoxicated subject from the Starboard to Lewes, and returned to the Starboard when he heard dispatch report that Robinson was there.

Upon arriving at the Starboard, Ofc. Swanson observed Robinson walking north along Coastal Hwy. Robinson stopped at his patrol vehicle, made a circle around it, then entered the event tent covering the Starboard parking lot. Officers Ebke and Rhodes also arrived at the Starboard. Ofc. Swanson entered the tent with Ofc. Ebke behind him. Swanson commanded Robinson to "stop," at which point Robinson ran out of the tent exit to Saulsbury Street. Ofc. Swanson then exited the tent toward Coastal Highway and ran north along the sidewalk, while Officers Ebke and Rhodes pursued Robinson through the tent to Saulsbury Street.

Ofc. Swanson observed Robinson run northbound into the alley behind Izzy Plaza. Ofc. Swanson and Cpl. Jenney ran parallel to the alley along the front side of Izzy Plaza. Ofc. Swanson heard yelling and a shot, then observed Officers Ebke and Rhodes retreat through a breezeway to Coastal Hwy. Ofc. Swanson did not speak to Ofc. Ebke after the shooting.

Ofc. Swanson heard a radio transmission that Robinson had been found on Saulsbury Street and responded to the location where he observed an on-scene Trooper roll Robinson onto his back and initiate CPR. Ofc. Swanson ran into the Starboard and requested an AED. A Starboard bouncer/EMT retrieved the AED and ran with Ofc. Swanson to Robinson's location. After Robinson was identified at Beebe Hospital, it was confirmed that his name did not appear in Starboard's scanned patrons data. Not all patrons were scanned due to an overwhelming crowd.

Dewey Beach PD Officer V. Letonoff:

Ofc. Letonoff advised that he is a retired Rehoboth Beach Police Department Veteran and is employed with Dewey Beach PD as an officer part-time. He began working at 7:00 p.m. on

March 18, 2022. Ofc. Letonoff was approached by a Starboard bouncer who pointed to Robinson and advised that he possessed a firearm in his waistband. Ofc. Letonoff asked Ofc. Ebke to assist him in approaching Robinson. Ofc. Letonoff placed his hand on Robinson's shoulder and asked "Are you armed?" Robinson began to reach for his right waist area. Ofc. Letonoff advised Robinson not to reach for the weapon. Robinson then ran with Officers Letonoff and Ebke in pursuit. Ofc. Letonoff last observed Robinson behind a fence in the rear of a residence on Bellevue Street. Ofc. Letonoff's shift ended before the shooting occurred.

Civilian Witnesses

Witness 1 ("W1"):

W1 works as a bouncer and night manager at the Starboard. W1 runs the Starboard security crew. W1 did not witness the initial incident where Robinson fled from Dewey Beach PD. After the earlier incident, W1 recognized Robinson, from the description provided, seated in the outdoor beer cooler area of Starboard with his head in his hands. W1 instructed employees to walk back into the restaurant. As W1 approached Robinson, Robinson told W1 he was waiting for his ride who was inside the Starboard. W1 acted as though he/she was assisting Robinson and went inside. W1 alerted another bouncer of Robinson's location and called 911. W1 then observed Robinson banging on the front doors of the Starboard's "Shark Tank" (gift shop) area. W1 asked Robinson to wait a minute and Robinson sat down. Robinson then entered the event tent covering the Starboard's parking lot and again said his ride was inside the Starboard. W1 asked Robinson to have a seat and W1 would check for his ride. W1 observed Robinson pace back and forth and talk to himself. Robinson appeared "nervous" and "antsy."

W1 observed Robinson begin to "quick walk" through the tent as Dewey Beach PD officers arrived. W1 heard officers yell "stop" after they exited the tent. W1 estimates he/she heard a gunshot 10-15 seconds after Robinson left the tent. After the shooting, W1 stepped outside the tent and asked Ofc. Ebke if everything was ok. At that time, Ofc. Ebke gave W1 a "thumbs up" sign. While meeting with Starboard staff to debrief, an officer ran inside the Starboard and requested an AED.

Witness 2 (“W2”):

W2 is a part-time Starboard security officer. W2 was positioned at the Starboard exit at closing time. W2 observed Robinson carrying a gun and notified Dewey Beach PD. W2 saw Robinson flee from Dewey Beach PD on foot. About an hour later, W2 was advised that Robinson had returned and was seated in an alley behind the Starboard. W2 instructed Robinson to walk around to the front of the Starboard. W2 had employees retreat into the Starboard as W1 called 911. W2 was standing at the VIP Porch when Dewey Beach PD officers chased Robinson through the event tent. W2 remained in the Starboard to ensure all employees stayed inside for safety. Shortly after the chase began, W2 heard a gunshot.

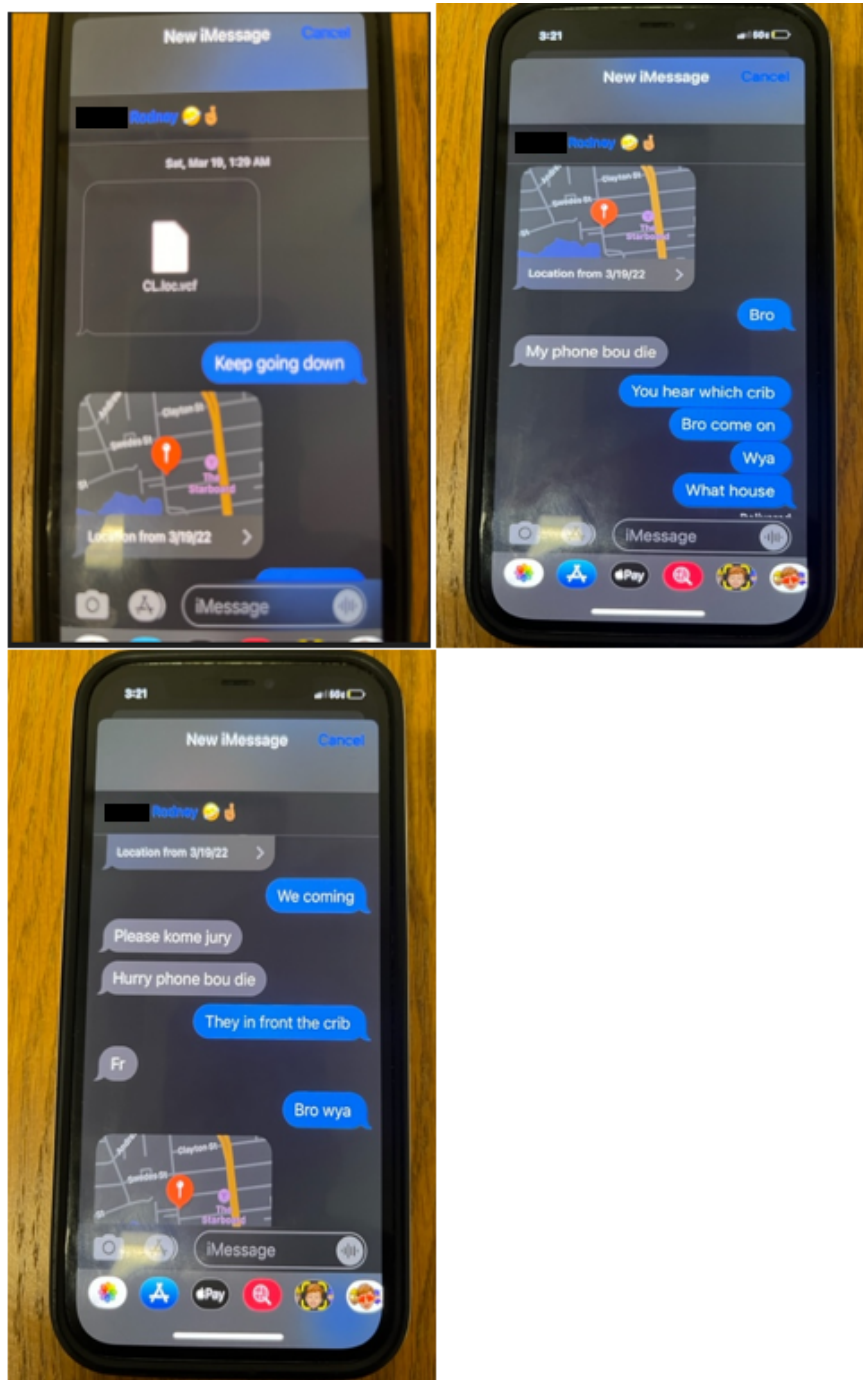
Witness 3 (“W3”):

W3 is the Starboard Doorman. W3 did not witness the initial police pursuit of Robinson. W3 became aware of the incident when employees were asked to remain inside upon Robinson’s return to the Starboard. W3 first observed Robinson when he entered the event tent over the parking lot. W3 watched Robinson’s hands and noticed he appeared to favor his right side. W3 did not contact Robinson but was attempting to remain in position to be a good witness. W3 observed Robinson flee from Dewey Beach PD officers through the tent. W3 heard officers give the commands of “stop” and “show me your hands.” W3 was walking toward the side of the tent when he heard a single gunshot. W3 escorted W1 with an AED to Robinson’s collapse location and performed chest compressions on Robinson until he was relieved by an officer. W3 did not observe a gun in proximity to Robinson’s collapse location. W3 was informed by an officer that the weapon was secured.

Witness 4 (“W4”):

W4 is a friend of Robinson. W4 drove Robinson to Dewey Beach on March 18, 2022 and parked at Grotto Pizza. W4 observed a handgun in Robinson’s possession while walking to the Starboard. W4 was unaware of how much alcohol Robinson consumed, but was aware Robinson had a shot and full drink upon arrival at the Starboard. W4 was speaking to someone in front of Mama Celeste Pizza when he observed Robinson running from Dewey Beach PD officers.

Robinson texted W4 map pins of his location and provided updates on police locations. W4 was aware that Robinson's phone battery was low. W4 was driven to Wawa at Route 1 and Route 24 and observed multiple police vehicles with activated emergency equipment driving southbound on Route 1.



Screenshots from W4's cell phone

Physical Evidence

Medical Examiner Report:

Robinson's autopsy report revealed he died from a gunshot wound to the chest. The gunshot wound was located on the right chest. The bullet created a hemorrhagic wound path penetrating the right chest cavity fracturing the right 1st rib and right clavicle. The bullet then perforated the right lung and fractured the thoracic spine in the area of thoracic vertebrae T8/T9. Associated with the wound was right hemothorax, laceration of the right lung, hemorrhage around the aorta, and laceration of the right main bronchus and right pulmonary artery. A deformed, large caliber, jacketed bullet was recovered in the right chest cavity.



STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF FORENSIC SCIENCE
200 South Adams Street
Wilmington, DE 19801

Decedent: Rodney K. Robinson, II
Case #: 2022-0841
Date: March 18, 2022
Day/Time: Saturday, 12:15 p.m.
Location: Wilmington, DFS

CIRCUMSTANCES: Shot by police.

PATHOLOGICAL FINDINGS:

Gunshot wound to chest:
right hemothorax;
laceration, right lung;
laceration, right pulmonary artery;
laceration, right main bronchus;
injury to subclavian artery;
bullet is recovered.

CAUSE OF DEATH: GUNSHOT WOUND TO CHEST.

MANNER OF DEATH: HOMICIDE.

Indeterminate range penetrating gunshot wound to the chest:

Located on the right chest (area of the right clavicle), centered 11" from the top of the head and 2" right of the anterior midline, there is a round ½" gunshot wound of entrance with abraded margins. There is no evidence of soot, searing or stippling. A bullet creates a hemorrhagic wound path which penetrates the right chest cavity fracturing the right 1st rib and right clavicle. The bullet then perforates the right lung and fractures the thoracic spine in the area of thoracic vertebrae T8/T9. Associated with the wound is right hemothorax (approximately 700 ml of blood in the right chest cavity), laceration of the right lung, hemorrhage around the aorta and laceration of the right main bronchus and right pulmonary artery. A deformed, large caliber, jacketed bullet is recovered in the right chest cavity. The bullet is photographed and submitted as evidence to the police, present at the time of autopsy.

The direction of the wound is downward.

Toxicology Report:

A drug screen revealed Alcohol (Ethanol) and Marijuana (THC) in Robinson's blood. Alcohol/Volatiles Analysis by GC-FID resulted as Ethanol present in the following amounts: Peripheral Blood (Femoral) 0.049 g/dL; Vitreous Humor 0.043 g/dL; and Urine 0.056 g/dL. This translates into a roughly what would be considered a .05 BAC.

CONFIRMATIONS

<u>Procedure</u>	<u>Specimen</u>	<u>Compound</u>	<u>Result</u>
Alcohol/Volatiles Analysis by GC-FID	Peripheral Blood (Femoral)	Ethanol	0.049 g/dL
	Vitreous Humor	Ethanol	0.043 g/dL
	Urine	Ethanol	0.056 g/dL
Cannabinoid Confirmation by GC-MS	Peripheral Blood (Femoral)	Delta-9-Tetrahydrocannabinol	3.7 ng/mL
	Peripheral Blood (Femoral)	Delta-9-Carboxy-Tetrahydrocannabinol	13 ng/mL

Body Worn Camera:

The Go-Pro body worn camera attached to Ofc. Rhodes' tactical vest had not been activated during the incident. The Go-Pro was provided to Dewey Beach PD as a demonstration model. Dewey Beach PD did not have body worn cameras at the time.

Description Bodycam footage on device from date of incident to last upload.

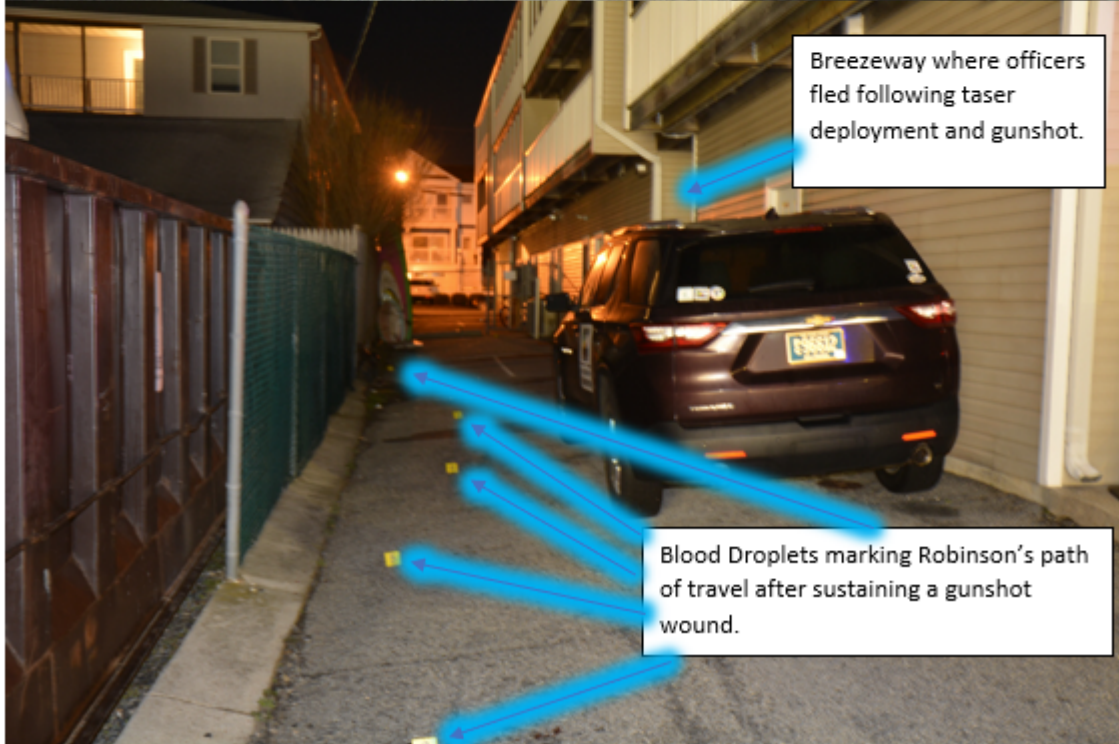
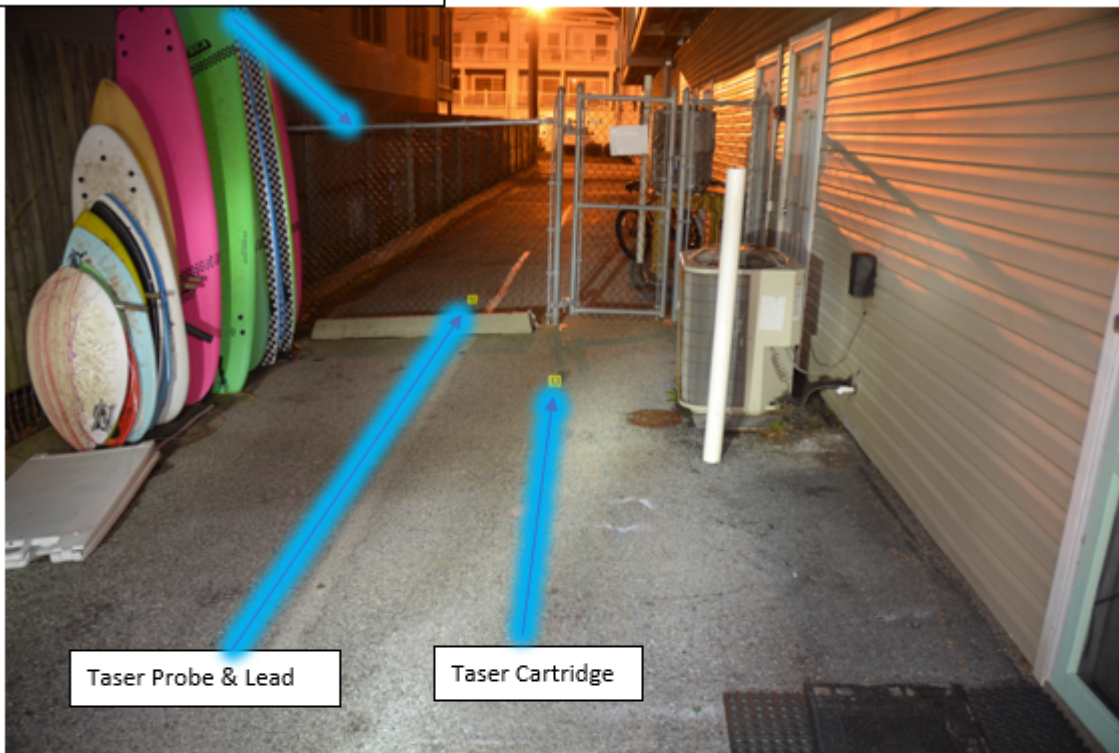
<div><div> Evidence</div><div> Linked cases</div><div> Members</div></div>			
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	GOPR0690.MP4		March 18, 2022 08:33 PM
	GOPR0689.MP4		March 10, 2022 08:54 AM
	GOPR0688.MP4		March 10, 2022 08:45 AM
	GOPR0687.MP4		March 10, 2022 08:33 AM

Dewey Beach PD Ofc. Rhodes' Go-Pro camera download

The device download confirmed the Dewey Beach PD Go-Pro body camera was last used 3/18/22 at 8:33 p.m. and was not activated during the incident involving Rodney Robinson.

Scene Photos:

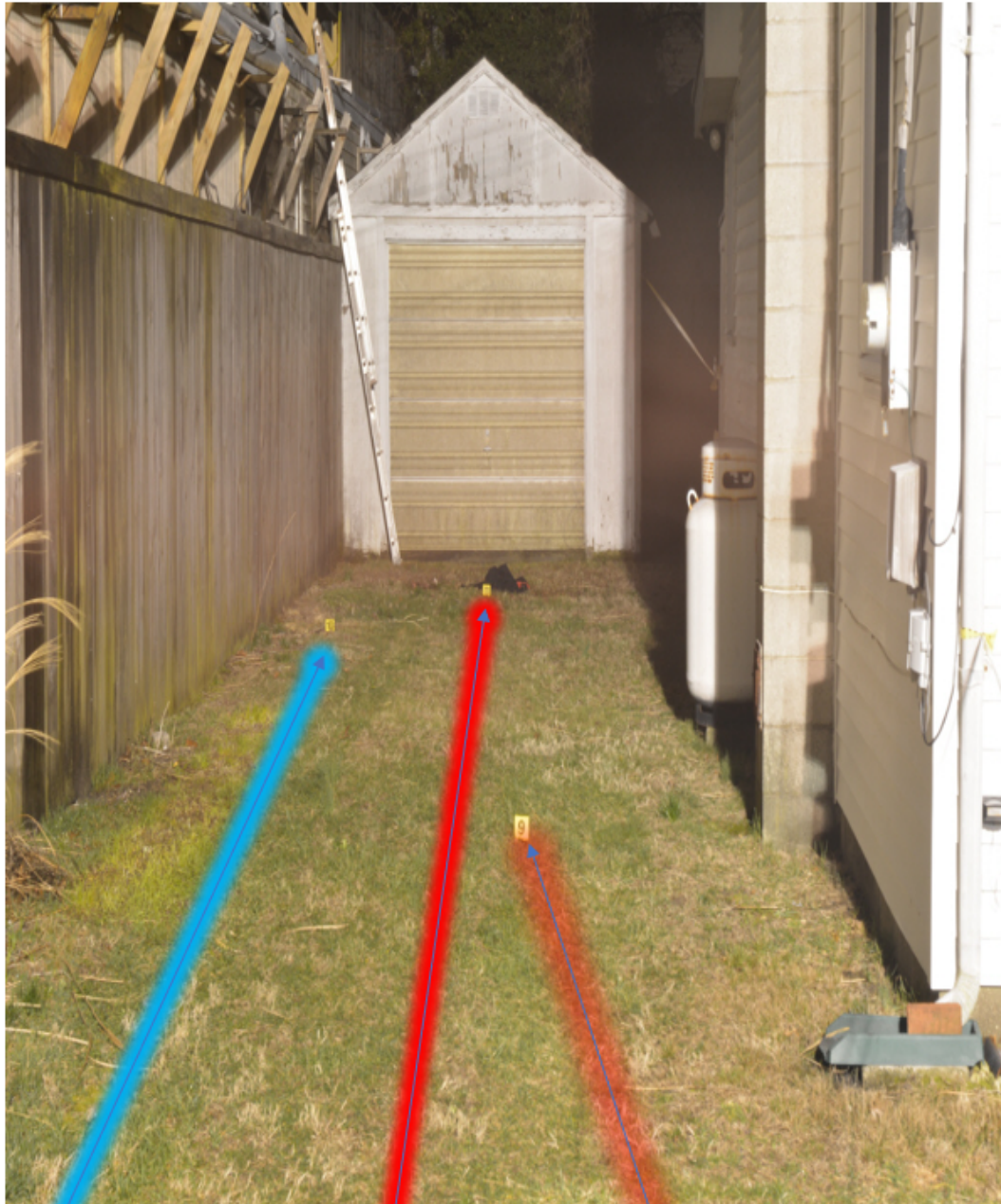
Fence Blocking Alley behind Izzy Plaza





Breezeway where officers fled from alley eastbound toward Coastal Highway (Rt. 1) following Taser deployment and gunshot. Photo is viewing eastbound from alley to Coastal Highway.

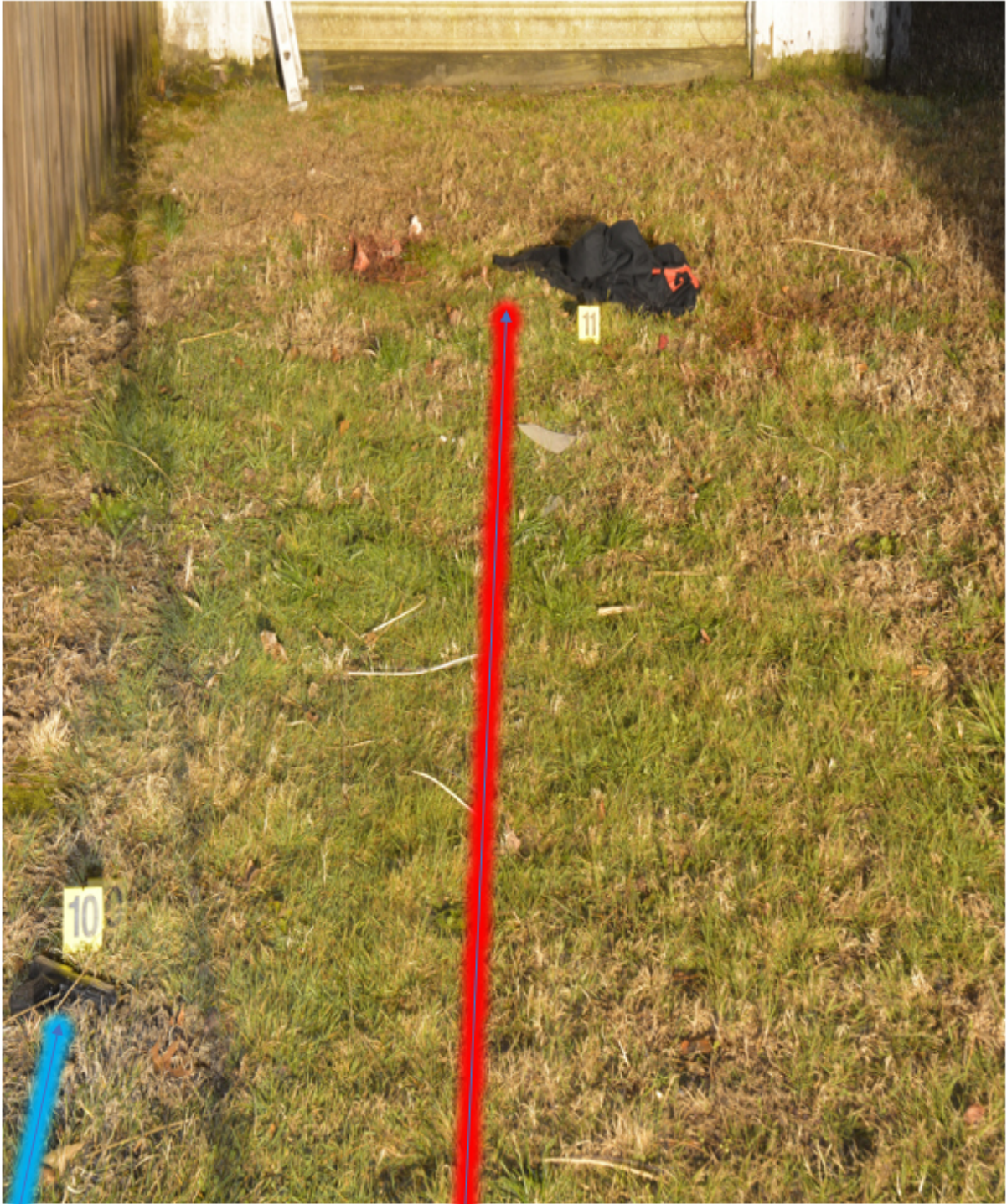




Firearm

Robinson Collapse Location

Blood Droplet



Firearm

Robinson Collapse Location

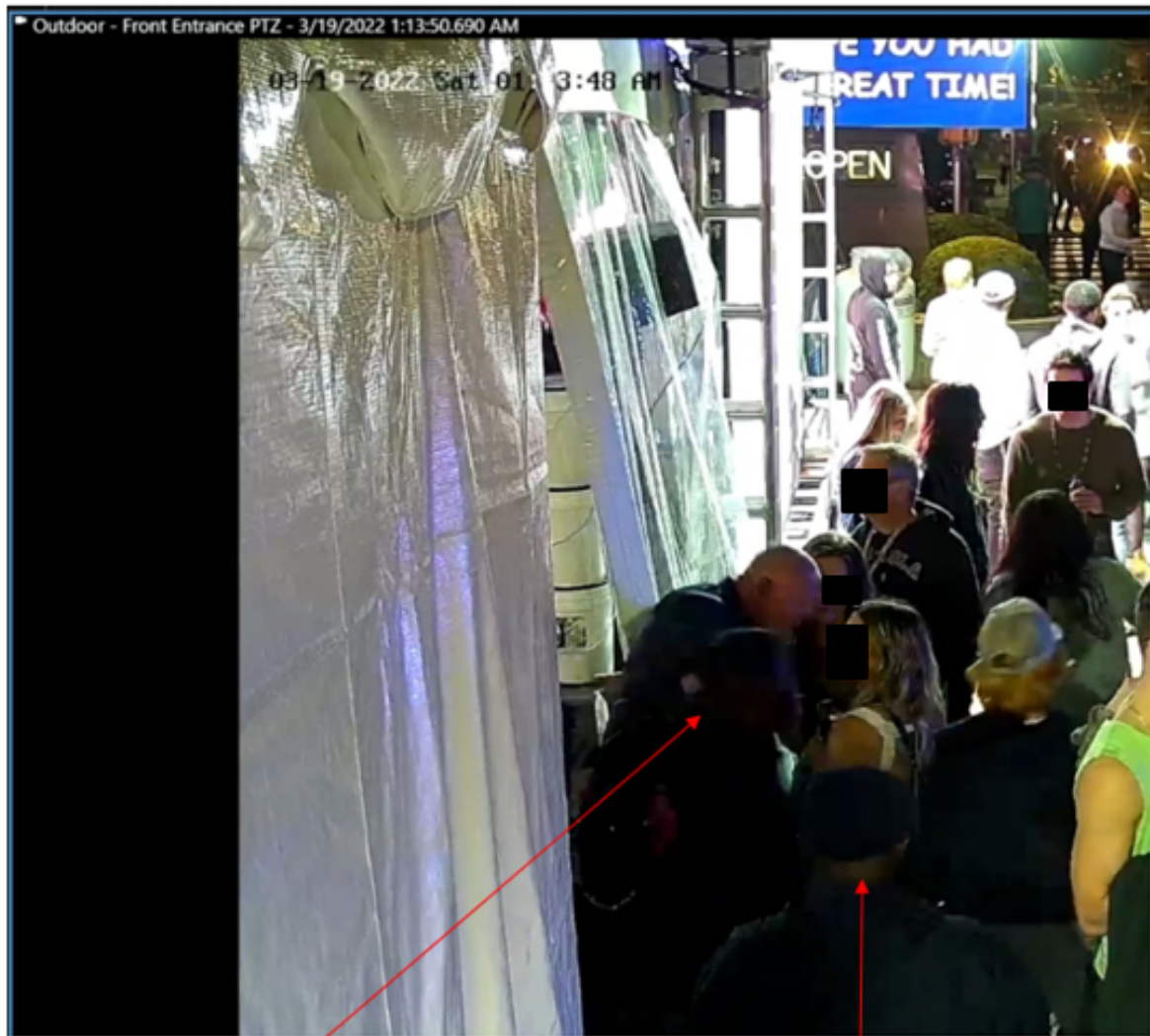


Surveillance Photos:

03-19-2022 Sat 01:06:35 AM



A review of Starboard security video recorded Robinson raising his sweatshirt to display a handgun in the right waist area of his pants to a group of unidentified males who appeared to be with him. Rodney Robinson displayed a firearm inside the Starboard Restaurant on 3/19/22 at 1:06 a.m.



Rodney Robinson

Starboard Security Officer

Starboard Security Officer noticed Robinson had a firearm in his waistband as he exited the establishment.

Rodney Robinson

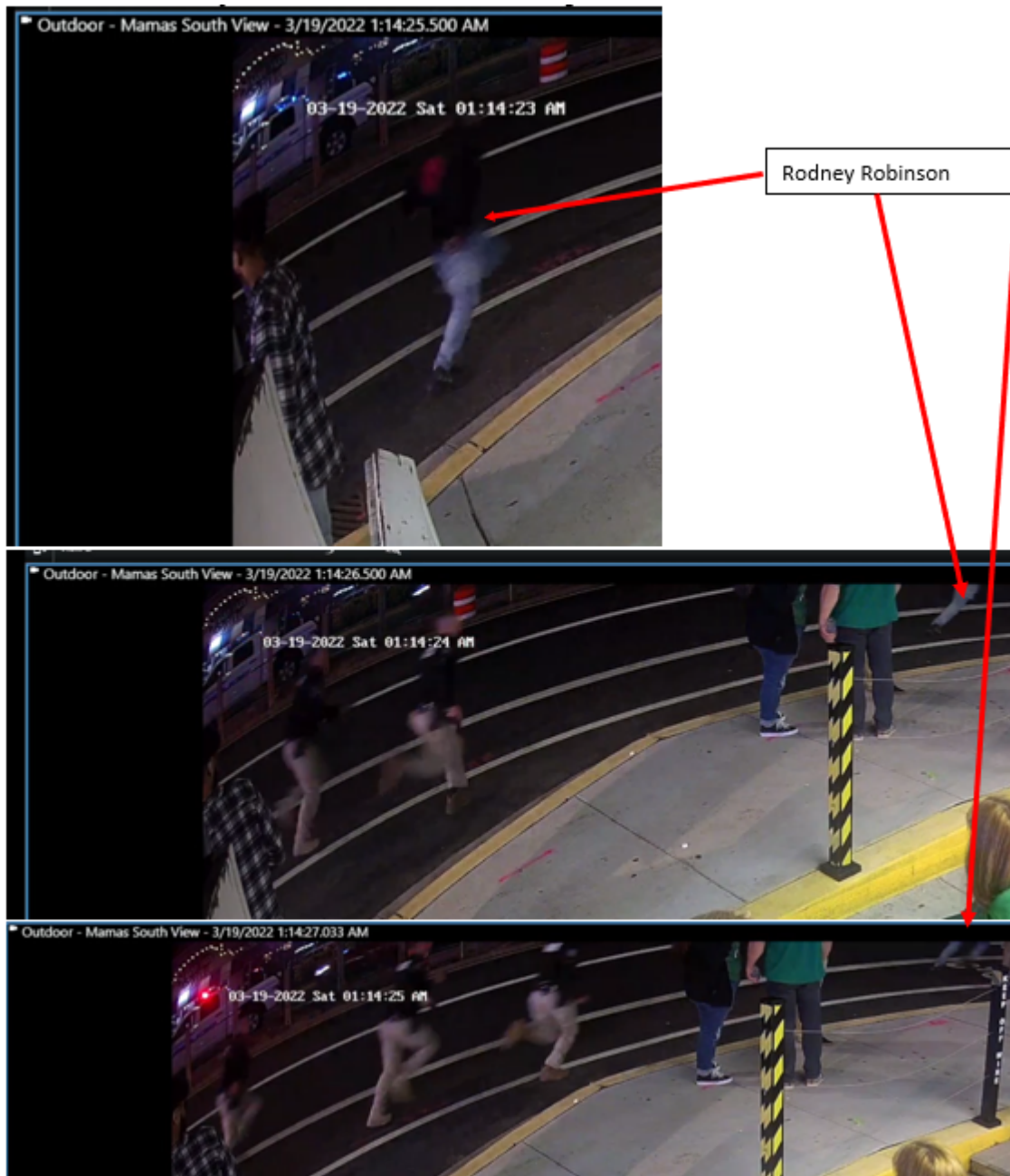
Starboard Security Officer



Starboard Security Officer advised Dewey Beach PD Officer Letonoff that a subject (later identified as Robinson) just exited the Starboard with a firearm in his waistband.



Dewey Beach PD Officers attempted to detain Robinson on the sidewalk in front of The Starboard 3/19/22 at 1:14 a.m. after security alerted them that he possessed a firearm.

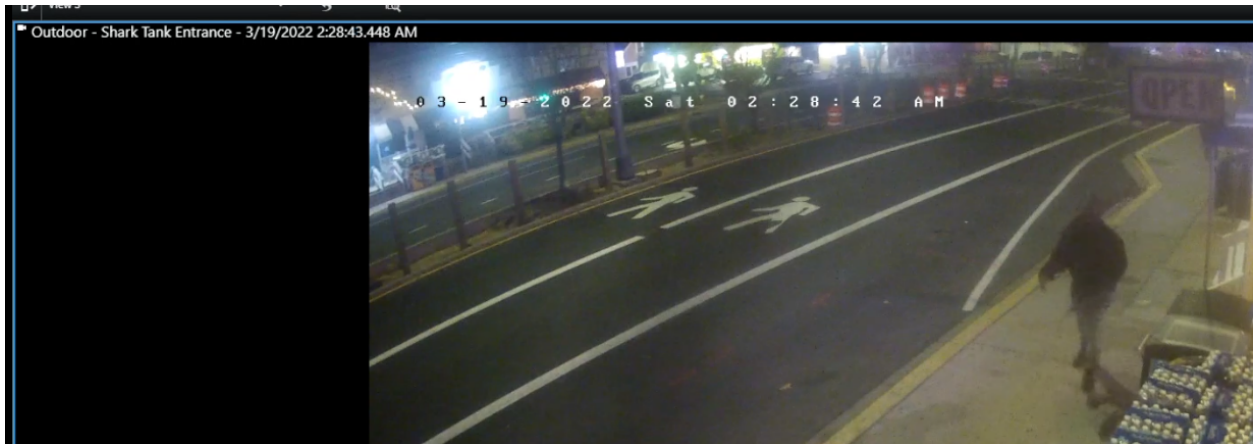


Robinson can be seen with his right hand in the area of his right waist area as he ran southbound on Coastal Hwy in front of Mama Celeste's Pizza, with Dewey Beach PD Officers in foot pursuit.



Rodney Robinson

A Dewey Beach Town camera located at the intersection of Coastal Highway and New Orleans St. also recorded footage of Robinson being pursued by Dewey Beach PD Officers. (Note: The Dewey Beach camera time is off by one hour from the Starboard security cameras due to a Daylight Saving Time adjustment discrepancy.)



Robinson is recorded on Starboard Surveillance as he walked northbound on Coastal Hwy., more than an hour after the initial foot pursuit.



Dewey Beach PD Officers Ebke and Rhodes are observed entering the tent covering the Starboard front parking lot upon Rodney Robinson's return to the Starboard Restaurant.

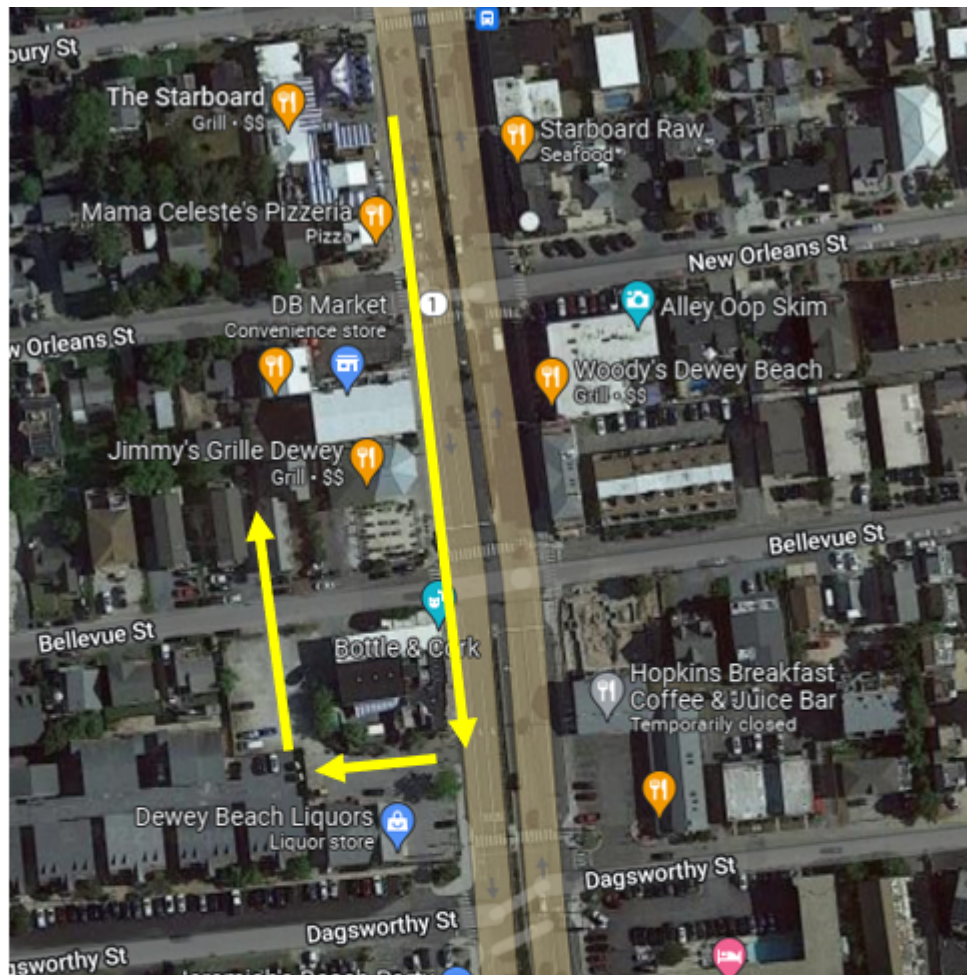


Robinson is observed as he again fled from police by running through the tent covering the Starboard front parking lot and exited onto Saulsbury St.

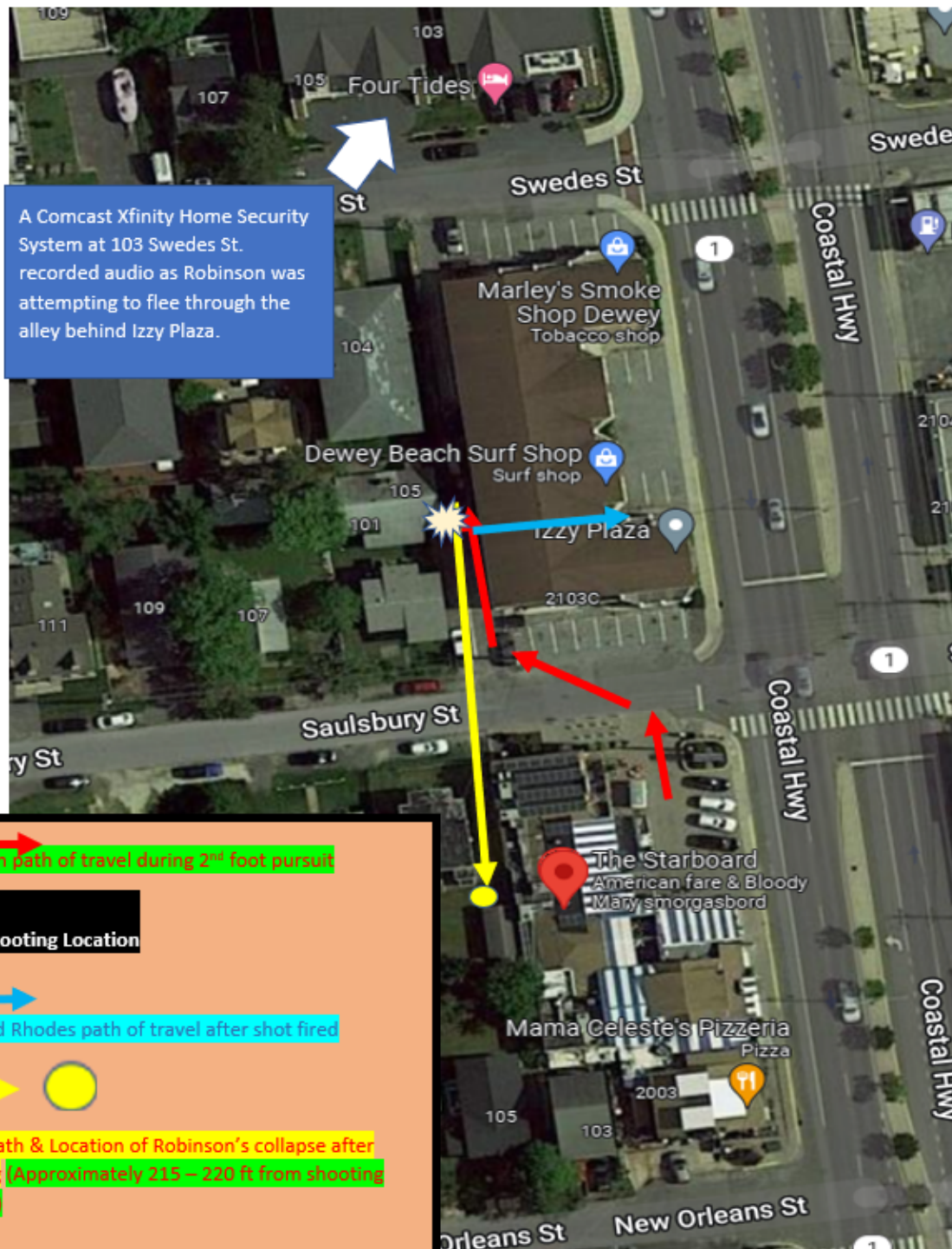


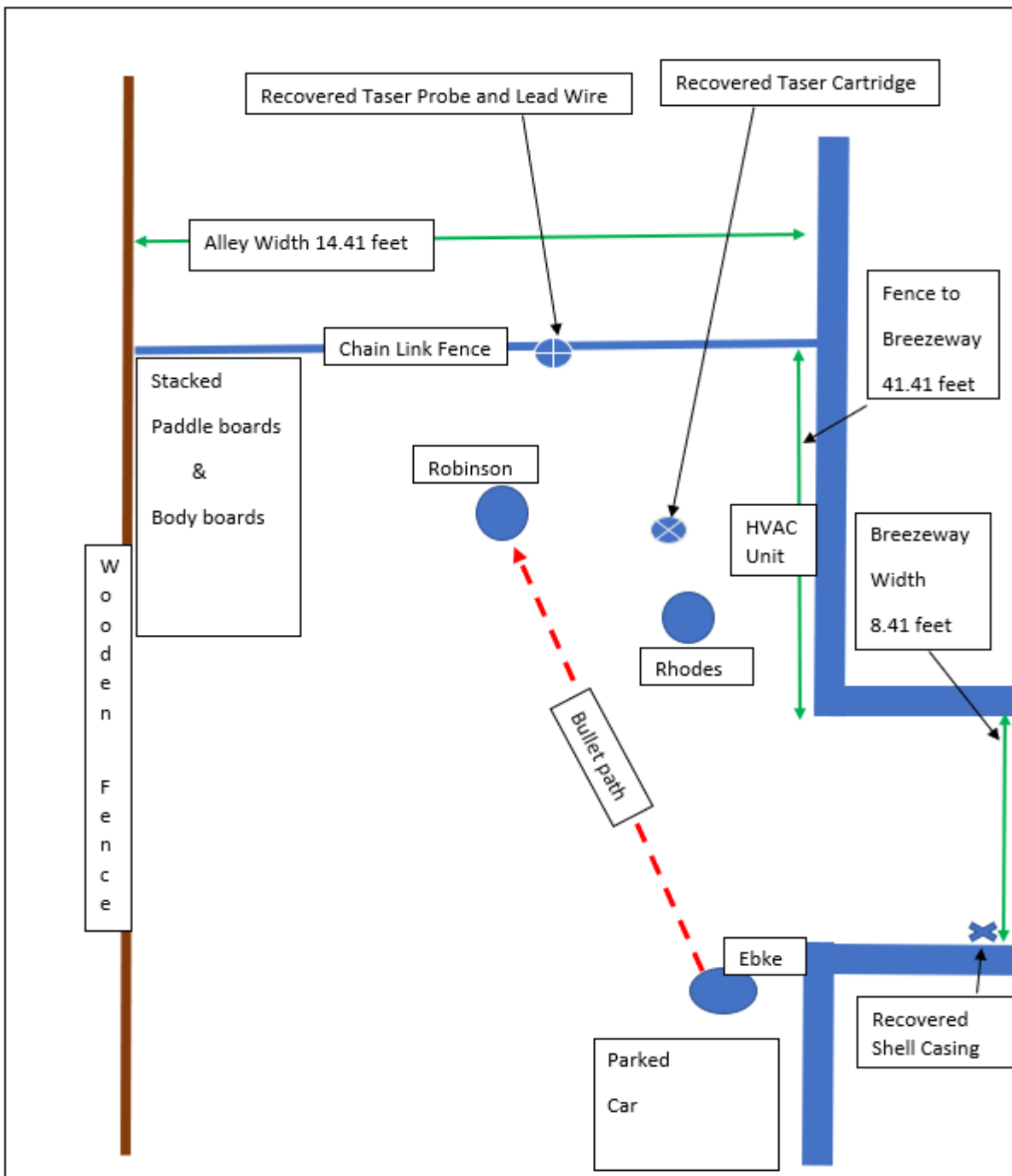
Officers Ebke and Rhodes can also be observed pursuing Robinson through the tent covering the Starboard front parking lot.

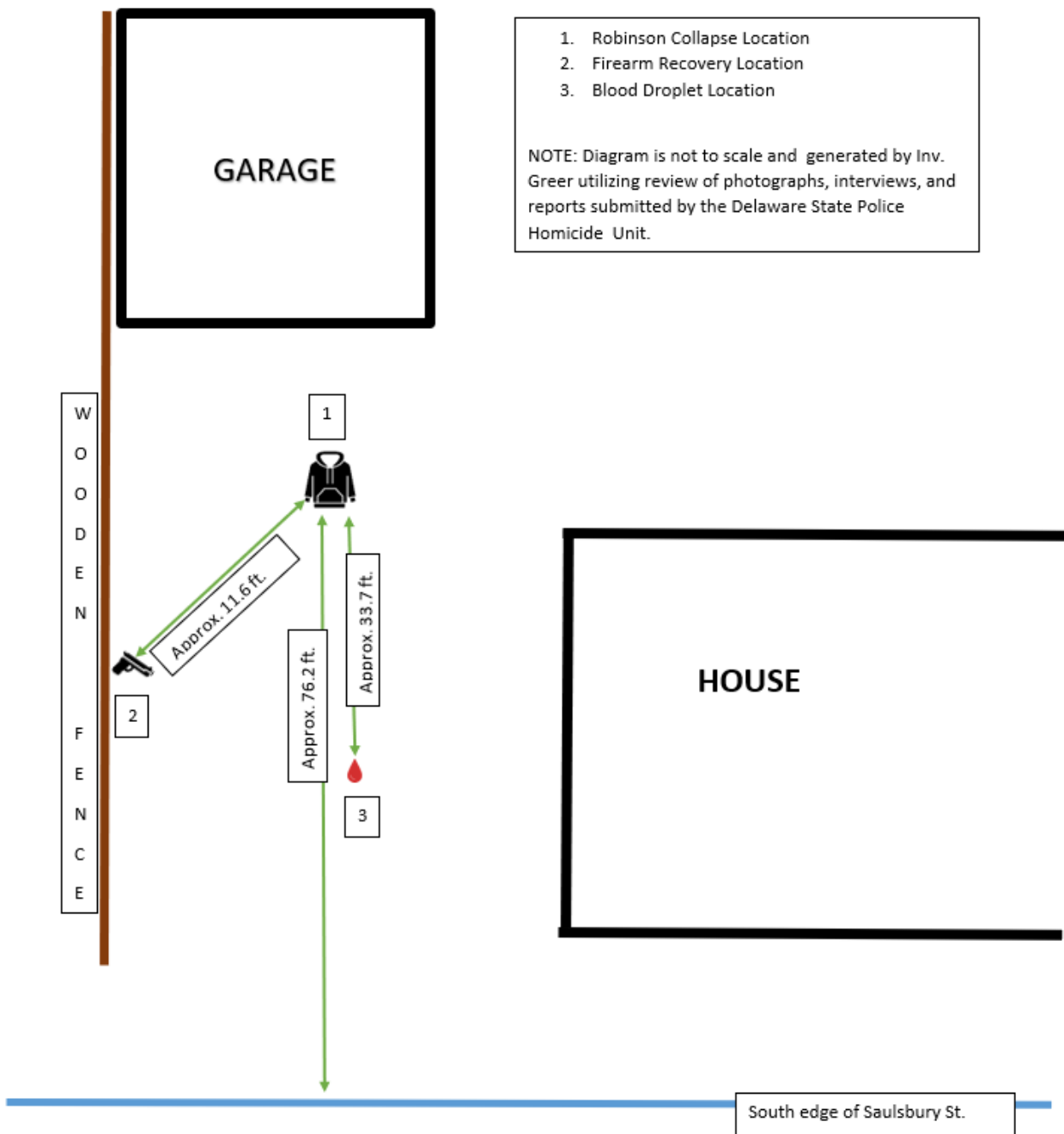
Diagrams of Robinson's Movement:



- Yellow arrows depict Rodney Robinson's path of travel the first time he fled from Dewey Beach PD Officers.
- He was last seen hopping a fence in the rear of homes on Bellevue St.
- Surrounding police agencies assisted the search for Robinson. However, Robinson eluded arrest in this first foot pursuit.







DNA Analysis:

Robinson's DNA was located on the slide and handle/receiver of the Springfield Armory 9mm handgun recovered in close proximity to Robinson's body following his collapse.



STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF FORENSIC SCIENCE
200 South Adams Street
Wilmington, DE 19801

DNA Laboratory Report CONFIDENTIAL

Case No.:	FE2022-06273	Report Date:	November 17, 2022
DNA No.:	DNA22-537	Complaint No.:	07-22-017246
Suspect:	Rodney Robinson	Agency:	
Victim:	Society		Sgt. Stephen Yeich Delaware State Police – Homicide Unit 600 South Bay Road, Suite 4 Dover, DE 19901

ITEMS SUBMITTED:

Items submitted by Det. Lewis Kester on October 12, 2022:

DNA22-537A	One tape sealed envelope containing swabs of a "Springfield Armory" 9mm handgun, magazine, and ammunition
DNA22-537B	One tape sealed envelope containing a blood reference from Rodney Robinson

Note: Evidence descriptions are based on the information provided by the submitting agency.

PRELIMINARY ANALYSIS RESULTS:

Preliminary analysis was not performed on the following samples; however, due to the case summary, these samples were taken through for DNA extraction:

Sample	Description	Presence of blood
DNA22-537A1a	Swabs – trigger of a "Springfield Armory" 9mm handgun	Negative
DNA22-537A2a	Swabs – slide of a "Springfield Armory" 9mm handgun	Indicated
DNA22-537A3a	Swabs – slide of a "Springfield Armory" 9mm handgun	Indicated
DNA22-537A4a	Swabs – handle/receiver of a "Springfield Armory" 9mm handgun	Indicated
DNA22-537A5a	Swabs – handle/receiver of a "Springfield Armory" 9mm handgun	Indicated
DNA22-537A6a	Swabs – magazine from a "Springfield Armory" 9mm handgun	Indicated
DNA22-537A7a	Swabs – ammunition from a "Springfield Armory" 9mm handgun	Negative



This laboratory is accredited by the American National Standards Institute National Accreditation Board (ANAB) in accordance with the recognized ISO/IEC 17025 standard. Refer to certificate and scope of accreditation FT-0103.

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DNA ANALYSIS CONCLUSIONS:

Human deoxyribonucleic acid (DNA) samples were amplified and typed using the Promega PowerPlex® Fusion 6C System (Amelogenin, D3S1358, D1S1656, D2S441, D10S1248, D13S317, Penta E, D16S539, D18S51, D2S1338, CSF1PO, Penta D, TH01, vWA, D21S11, D7S820, D5S818, TPOX, D8S1179, D12S391, D19S433, SE33, D22S1045, DYS391, FGA, DYS576 and DYS570). DYS391, DYS576, and DYS570 are male loci and will not be present in female samples. The detection methodology used for this system is capillary electrophoresis.

The reagent blank, positive, and negative control samples associated with the reported profiles produced the expected results, indicating that the analyses were performed successfully.

Note: It is possible that indications of additional contributors may exist below the current limits of detection.

- (1) The following reference sample produced a single source DNA profile:

Sample	Description
DNA22-537B1a	Rodney Robinson

- (2) The following evidentiary samples each produced a single source DNA profile matching the known DNA profile of Rodney Robinson:

Sample	Description	The probability of randomly selecting an unrelated individual with a DNA profile matching that of the following sample is:
DNA22-537A2a	Swabs – slide of a "Springfield Armory" 9mm handgun	1 in >8,000,000,000,000 (8 trillion)
DNA22-537A3a	Swabs – slide of a "Springfield Armory" 9mm handgun	1 in >8,000,000,000,000 (8 trillion)
DNA22-537A4a	Swabs – handle/receiver of a "Springfield Armory" 9mm handgun	1 in >8,000,000,000,000 (8 trillion)
DNA22-537A5a	Swabs – handle/receiver of a "Springfield Armory" 9mm handgun	1 in >8,000,000,000,000 (8 trillion)

- (3) No conclusions can be made regarding the following evidentiary samples due to insufficient amounts of amplified DNA:

Sample	Description
DNA22-537A1a	Swabs – trigger of a "Springfield Armory" 9mm handgun
DNA22-537A6a	Swabs – magazine from a "Springfield Armory" 9mm handgun

- (4) The following evidentiary sample did not produce a DNA profile:

Sample	Description
DNA22-537A7a	Swabs – ammunition from a "Springfield Armory" 9mm handgun

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DISPOSITION OF EVIDENCE:

- (1) Unless otherwise noted, the items submitted in this case are ready to be returned.
- (2) Unless otherwise noted, the extracts in this case will be ready for pick up at the time of evidence return.
- (3) The DNA profile associated with the following sample has been entered into the Combined DNA Index System (CODIS), in accordance with state and national regulations, where regular searches will be performed. Notification will be issued if there is a hit in the database or if this profile is removed from CODIS at any time in the future.

Sample	Description	Number of Original Core Loci
DNA22-537A5a	Swabs – handle/receiver of a "Springfield Armory" 9mm handgun	13

Additional information on CODIS can be found at <https://forensics.delaware.gov/>

NOTE: Contact a DFS Forensic Evidence Specialist, at (302) 577-3420, within 30 days of receiving this report to make an appointment for return of evidence.



November 17, 2022

Paul Gilbert (analyst)
Senior Forensic DNA Analyst

Date



November 17, 2022

Sarah Lindauer (reviewer)
Senior Forensic DNA Analyst

Date

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Forensic Firearm Analysis:

The Delaware State Police Forensic Firearms Services Unit (“FFSU”) analyzed the following firearm related evidence: 9mm Luger caliber Springfield Armory semi-automatic pistol that was recovered adjacent to Robinson; Jacketed hollow point bullet from the .45 caliber family that was recovered from Robinson’s chest cavity during autopsy; .45 Auto caliber Glock semi-automatic pistol assigned to Ofc. Ebke; and .45 Auto caliber cartridge case, Federal brand that was recovered from the breezeway of Izzy Plaza.

The analysis confirmed the recovered .45 caliber hollow point bullet was not fired from the Springfield Armory pistol. The recovered .45 caliber hollow point bullet could neither be identified or eliminated as having been fired from the Glock 21 firearm. The analysis confirmed the recovered Federal cartridge case was fired from Dewey Beach PD Officer Ebke’s assigned Glock 21 firearm.



EVIDENCE SYNC™

TASER Information

Dept. DEWEY BEACH POLICE DEPT.
Serial X3000AF04
Model TASER X2
Firmware Version Rev. 04.038
Device Name X3000AF04
Health Good

Report Generated by

Name Vaughn, Gavin
Badge ID 9898
Local Timezone Eastern Standard Time (UTC -0400)
Generated On 24 Mar 2022 10:33:09

385	19 Mar 2022 02:33:48	Armed	C1: 25' Standard C2: 25' Standard		19	51
386	19 Mar 2022 02:33:49	Trigger	C1: Deployed	3		51
387	19 Mar 2022 02:33:52	Safe	C1: Deployed C2: 25' Standard	4	20	51
388	24 Mar 2022 10:35:24	USB Connected				
389	24 Mar 2022 10:31:50	Time Sync	24 Mar 2022 10:35:28 to 24 Mar 2022 10:31:50			

Dewey Beach PD Ofc. Rhodes’ Taser download

The download data is consistent with interview statements by Ofc. Rhodes and Ofc. Ebke, and the audio captured by an Xfinity system located at 103 Swedes Street. One Taser probe wire was entangled in the Izzy Plaza alley fence, and Ofc. Ebke observed one probe wire emanating

from Robinson's left shoulder. If one probe struck the fence and one struck Robinson, the device would not have delivered an incapacitating charge to Robinson.

Conclusion

The State must determine if the use of deadly force by Dewey Beach Patrolman Dylan Ebke against Robinson was a criminal act for which there is a reasonable probability of a conviction. Title 11 Section 464 of the Delaware Code defines the legal use of force in self-protection. It provides, in pertinent part, that "[t]he use of force upon or toward another person is justifiable when the [officer] reasonably believes that such force is immediately necessary for the purpose of protecting the [officer] against the use of unlawful force by the other person on the present occasion." The State will also determine whether the use of deadly force by the officer was permitted pursuant to Title 11 Section 465, use of force for the protection of other persons.²

Under Delaware law, the state of mind of a reasonable person is the legal test to determine whether the use of force was legally justifiable against another person. The specific factual inquiry is two-pronged. The first question is whether the officer(s) reasonably believed, at the time they intentionally fired their weapon, that such action was necessary to protect themselves or others from death or serious physical injury. The second question is whether the officer was reckless or negligent in having such belief, or in acquiring or failing to acquire any knowledge or belief, which is material to the justifiability of the use of force. 11 *Del. C.* § 470(a). If such force is determined to have been justified, we will also examine whether such force negligently or recklessly created injury or risk of injury to innocent third parties pursuant to 11 *Del. C.* § 470(b).

Based upon the evidence available, we conclude that, Ofc. Ebke reasonably felt in fear for his own life, and the life of Ofc. Rhoades when Robinson reached a fence line, was unaffected by the Taser, turned towards Ofc. Ebke, pulled up his sweatshirt, and put his hand in his waistband where Ebke saw a bulge near where he previously saw the handle of a handgun. Further, the

² "(a) The use of force upon or toward the person of another is justifiable to protect a third person when: (1) The defendant would have been justified under § 464 of this title in using such force to protect the defendant against the injury the defendant reasonably believes to be threatened to the person whom the defendant seeks to protect; and (2) Under the circumstances as the defendant reasonably believes them to be, the person whom the defendant seeks to protect would have been justified in using such protective force; and (3) The defendant reasonably believes that intervention is necessary for the protection of the other person."

officers were aware from both their observations and the observations of several others (relayed to them) that Robinson was armed. We conclude that because Ofc. Ebke reasonably felt in fear for his life and the life of another officer when he used force, such use was justified pursuant to 11 Del. C. § 464.

Additionally, Ofc. Ebke was neither negligent nor reckless in forming his belief that force was necessary for the protection of self or others. Ofc. Ebke saw the handle of a handgun in Robinson's waistband during an earlier foot chase. He observed Robinson turn towards him, pull up his sweatshirt and put his hand in his waistband, where Ebke saw a bulge, immediately prior to Ebke pulling the trigger of his weapon one time. This decision to use force by firing one shot in these circumstances was neither reckless nor negligent.

Because Ofc. Ebke was justified to use force pursuant to 11 Del. C. § 464, we further determine that he was not negligent or reckless in injuring or creating a risk of injury to third persons under 11 Del. C. § 470(b). Given the early morning hour, no third person was in Ofc. Ebke's line of fire and no third persons were injured nor at risk of injury from the single gunshot.

Finally, the law now requires that a DCRPT public report on the use of force include the race of the law enforcement officer who used force, the race of the individual on whom force was used, and whether race was a relevant or motivating factor. Ofc. Ebke is a white male. Robinson was a black male. There is no evidence to suggest that race was a relevant or motivating factor in the use of force in this case.³

Upon careful consideration of the available evidence and the application of expert opinion to that evidence, DCRPT determines that Ofc. Ebke reasonably believed that the use of deadly force upon Robinson was immediately necessary for the purpose of protecting himself and others. For these reasons, the Department of Justice concludes the use of deadly force in this case does not constitute a criminal offense under the laws of the State of Delaware.

³ If race were a relevant or motivating factor in any shooting, the criminal charging analysis would include a discussion of Hate Crimes under 11 Del. Sec. 1304(b).